

device that receives image information over the Internet and transmits capability information to the transmitter side, classified in class 709, subclass 242.

The Examiner asserts that inventions of Groups I and II are disclosed as subcombinations usable together in a single combination but that subcombinations are distinct from each other because Group I has separate utility such as a facsimile device which can transmit a facsimile message over a PSTN or the Internet, depending on a receiver's preference, while invention II has separate utility such as an E-mail server that receives E-mail, and transmits current image processing capabilities of the server to a sending computer. The Examiner further asserts that Group I is classified in class 358, subclass 439, while Group II is classified in class 709, subclass 242.

Applicants respectfully traverse the Restriction requirement between Groups I and II for the following reasons. It appears the search for the inventions of Groups I and II would overlap since both inventions share several common features of image communication. Moreover claim 16 (Group II) recites PSTN and internet communication.

Further, the Examiner states that Group I is classified in class 358 (Facsimile and Static Presentation Processing) and Group II is classified in class 709 (Electrical Computers and Digital Processing Systems: Multiple Computer or Process Coordinating) and that the groups disclose separate utility. Applicants assert that this is an incorrect classification of Group I since the definition for class 358 states that facsimile communication over a telephone line or network are not included in class 358. Group I clearly includes claims directed to communications over a PSTN and network. Thus, Group I cannot be of class 358 as suggested by the Examiner. Moreover, in the class 358 definition, the Group II class, class 709, is suggested as another area to search. Based on the

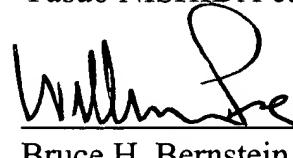
foregoing, Applicants assert that the Examiner has failed to show that Groups I and II are distinct from each other and separately classified usable. For at least these reasons, Applicants respectfully requests that the restriction requirement of Groups I and II be withdrawn.

Further, as set forth in MPEP § 803, the Examiner must provide reasons and/or examples to support conclusions when requiring restriction, and the Examiner must further set forth the existence of “a serious burden” if the Restriction Requirement were not required. Applicants submit that the Examiner has not addressed the required issue of “serious burden.” MPEP § 803 requires that the Examiner not only provide reasons and/or examples to support conclusions when requiring restriction, but further requires that the Examiner set forth the existence of a “serious burden” if the Restriction Requirement were not required. Applicants submit that the Examiner has not addressed the required issue of “serious burden” in this regard. Therefore, consistent with the Office Policy set forth in MPEP § 803, Applicants respectfully request that the Examiner reconsider and withdraw the Restriction Requirement of the present application.

For all of the above reasons, the Examiner’s Restriction is believed to be improper. Nevertheless, Applicants have elected, with traverse, the invention defined by Group I, in the event that the Examiner chooses not to reconsider and withdraw the Restriction Requirement.

Should there be any questions or comments, the Examiner is invited to contact the undersigned at the below-telephone number.

Respectfully submitted,
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